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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

July 1, 2009

Michael J. Yeosock, Chair
State Board of Funeral Directors
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-4818 (IRRC #2760)
State Board of Funeral Directors
Continuing Education Enforcement

Dear Mr. Yeosock:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Robert M. Tomlinson, Chair, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Chair, Senate Consumer Protection and Professional Licensure Committee
Honorable Michael P. McGeehan, Chair, House Professional Licensure Committee
Honorable William F. Adolph, Jr., Chair, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State

Comments of the Independent Regulatory Review Commission



State Board of Funeral Directors Regulation #16A-4818 (IRRC #2760)

Continuing Education Enforcement

July 1, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the May 2, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Funeral Directors (Board) to respond to all comments received from us or any other source.

1. Consistency between Sections 13.321 and 13.401. – Clarity.

House Professional Licensure Committee

On June 16, 2009, the House Professional Licensure Committee (Committee) voted to submit comments on this regulation. The Committee suggested clarifying the language in Sections 13.231 relating to license renewal and Subsection 13.401(d) relating to a six month period to make up a deficiency in continuing education credits. These provisions appear to be inconsistent as one section states that the Board will not grant a licensee's application for renewal unless the continuing education requirements are complete, while the other section allows the licensee to make up a deficiency within six months of the end of the expired biennial renewal period. The Committee also requests information on how the Board will monitor the six month grace period. We agree that the language of these sections needs to be clarified to reflect the Board's intent. We will review the Board's responses to the Committee's comments as part of our determination of whether the final regulation is in the public interest.

Status of license and penalties during the six month make up period

Related to the Committee's concern, the Board should explain the status of a license between the end of a biennial period when a license would expire and the point in time a licensee provides satisfactory proof of attendance at continuing education courses.

Additionally, the Board should explain how it will implement the penalties described in Subsection 13.401(d) during the six month make up period. Will the Board immediately impose the discipline and civil penalties on the licensee or will the Board delay imposing them pending completion of credit hours during the six month make up period?

2. Section 13.401. Credit hour requirements. – Clarity.

Six month period to make up a deficiency

The third sentence of Subsection (d) states:

Within 6 months after the end of the renewal period during which the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of attendance at continuing education courses **during the previous biennial registration period** as required under § 13.402 (relating to reporting completion of continuing education). (Emphasis added.)

As written, this sentence lacks clarity. It makes sense for a licensee to make up a deficiency and provide proof of attendance. However, the phrase “during the previous biennial registration” misplaces the time period of when the licensee makes up the deficiency. The Board should review and amend this sentence as appropriate.

“Or this chapter”

The first sentence of Subsection (d) states “Unless otherwise excused as authorized under the act or this chapter...” We did not find a provision that specifically authorized excuse from continuing education in Chapter 13 of the Board’s regulations (i.e., “this chapter”). The Board should review this sentence and either add a cross-reference to the specific provision in Chapter 13 or delete the phrase “or this chapter.”

Facsimile Cover Sheet



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INDEPENDENT REGULATORY REVIEW COMMISSION
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To: Tom Blackburn
Cynthia Montgomery
Agency: Department of State
Licensing Boards and Commissions
Phone: 3-7200
3-3394 (Cynthia Montgomery)
Fax: 7-0251
Date: July 1, 2009
Pages: 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Funeral Directors' regulation # 16A-4818 (IRRC #2760). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Pat Hippel **Date:** 7/1/09